

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

TRIGINAL JACKSON,

Petitioner,

v.

CIV 09-0350 JCH/KBM

STATE OF NEW MEXICO,

Respondent.

**ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND
RECOMMENDED DISPOSITION**

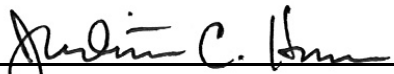
The Magistrate Judge filed her Proposed Findings and Recommended Disposition on June 25, 2009, recommending that Respondent's motion to dismiss be denied, Petitioner's motion to amend be denied, and this action be dismissed without prejudice. *See Doc. 19*. The proposed findings notify Petitioner of his ability to file objections and that failure to do so waives appellate review. To-date, Petitioner has not filed any objections. Instead, he filed a second motion to amend on July 14, 2009, stating that he is "still await[ing] an[] answer" to his first motion to amend. *Doc. 20*.

Petitioner has elected to receive notice electronically, so the proposed findings were sent to his e-mail address of record. *See Exh. 1*. And, the Court's CM/ECF records document that he received them. *See Exh. 2*. Thus, I do not credit the implication that Petitioner does not know the proposed disposition of his first motion.

Wherefore,

IT IS HEREBY ORDERED AS FOLLOWS:

1. Respondent's motion to dismiss with prejudice for lack of "custody" (*Doc. 18*)¹ is DENIED;
2. Jackson's motion to amend to add additional defendants to this action (*Doc. 15*) is DENIED;
3. Petitioner's second motion to amend (*Doc. 20*) is DENIED AS MOOT;
4. This action is DISMISSED WITHOUT PREJUDICE for the reasons set forth in the magistrate judge's recommended findings; and
5. A final judgment enter concurrently herewith.


UNITED STATES DISTRICT JUDGE

¹ In the Report and Recommendation (*Doc #19* , filed on 06/25/09), there is a typographical error identifying Document # 18 as Document #14.